

THE MADRAS ENTERTAINMENTS TAX (AMENDMENT) BILL, 1947 71
(L.A. BILL NO. 28 OF 1947)

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rupee on the gross value of the ticket up to Rs. 3 but if it is more than Rs. 3 but not more than Rs. 5, one-fifth of such payment and if it is more than Rs. 5, one-third of such payment. In the case of other entertainments, Sir, the tax will be if it is not more than 5 annas, one-fifth of such amount, i.e., 1 anna and if it is more than 5 annas and not more than Rs. 1-8-0, one-fourth of such payment, and so on. There is another principle, Sir, in the case of cinematograph exhibitions. The tax will be on the net value of the ticket whereas in the case of other entertainments including racing, sports, etc., the gross value will be taken into consideration when the tax is levied. As the members are aware 90 per cent of the proceeds arising out of this source of revenue will be distributed to the local authorities as the Corporation, municipalities, etc., where this tax is collected. So they get 90 per cent and the Government retains only 10 per cent for collection charges, etc. The local bodies can thus give greater facilities and conveniences to their people by way of better education, sanitation, etc., and I am sure the House will give its sanction for this Bill as amended by the Select Committee and as passed by the Legislative Assembly."

The motion was put and carried.

MR. PRESIDENT :—" I take it that there are no speakers."

Clause 2 was put and carried.

Clauses 3, 4, 5, 6 and 7 were put one by one and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI B. GOPALA REDDI :—" Sir, in moving that the Bill be passed into law, I am very happy that there were no amendments to the Bill and even without a discussion it has reached this stage. I am very thankful to the hon. Members of this House."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" That shows their confidence in you."

THE HON. SRI B. GOPALA REDDI :—" That shows their interest in the local bodies."

The motion was carried and the Bill was passed into law.

(2) THE MADRAS GENERAL SALES TAX (AMENDMENT) BILL, 1947
(L.A. BILL NO. 25 OF 1947).

* THE HON. SRI B. GOPALA REDDI :—" I move—

'that the Madras General Sales Tax (Amendment) Bill, 1947 (L.A. Bill No. 25 of 1947), as passed by the Assembly be taken into consideration at once.'

"Sir, in November last, a Special Officer was appointed to go into the question of the working of the general sales tax as it was passed in 1939 and to suggest any improvements in the method of taxation, etc., and to withdraw some of the exemptions which were

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given in the 1939 Act. In February this year the Special Officer submitted his report and the report was carefully examined in consultation with various commercial bodies and Mr. Karanth who was then in charge of this subject convened two conferences and invited various representatives of commercial bodies and as a result of those consultations a Bill was published some time ago. Then a Select Committee of the Legislative Assembly—I am sorry we could not get the co-operation of the members of this House, because then under the existing rules it was rather difficult to get a joint Select Committee—and so the Select Committee of the Assembly, went into the draft very carefully and received memoranda and representations from a number of commercial bodies and we had eleven sittings examining a number of representations coming from various quarters. The Select Committee transacted business as if it were a Tariff Board examining individual cases whether a particular commodity like tea and coffee could be subject to higher taxation, whether jute exports should be given a preferential rate or not, whether bullion can bear some taxation because it was having an exemption previously and if so what percentage it can bear and whether the sale of the luxury articles can bear any additional taxation and if so what was to be the percentage, etc. All these things were examined very closely and minutely by the Select Committee and a report was submitted to the Legislative Assembly. I am glad to find that the Legislative Assembly gave a very hearty welcome to the Bill as it emerged from the Select Committee and hon. Members of the Assembly were vying with each other to congratulate the Select Committee on their recommendations and without any amendment, they gave their sanction to its recommendations.

“ The principle is that the sales tax which was one per cent previously is sought to be raised to $1\frac{1}{2}$ per cent which will give an addition of nearly $2\frac{1}{2}$ to 3 crores of rupees. The yield from sales tax is showing a rise from month to month even under the present arrangement and we expect something like 8 crores of rupees and with a $1\frac{1}{2}$ per cent sales tax for a full year, it may be between $10\frac{1}{2}$ to 11 crores of rupees.

“ Some exemptions are being withdrawn. Bullion, for instance, which used to enjoy exemption previously is being taxed at one point only and that at $\frac{1}{2}$ per cent. We thought of including cotton but the Select Committee thought it fit to exempt cotton altogether and cotton will continue to be exempted as it used to be. Tea and coffee were being taxed at all the later stages except at the first stage. But hereafter, tea which will be exported outside the Province will not be subject to any taxation and it will continue to get complete exemption but internal consumption of tea is subject to this tax at $1\frac{1}{2}$ per cent at the first stage. We wanted to include coffee for taxation at the first point but in view of the fact that the Coffee Board at Bangalore under the aegis of the Government of India is the first seller and as the Government of India give us exemptions in respect of so many things, we

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thought it is not right that we should tax them. The Select Committee, therefore, thought that we should go into the matter in greater detail and see whether coffee could be brought under the first point taxation. Handloom cloth will be taxed only at one point, namely, at the last stage and up to that point it is tax free but only at the retail end it will be subjected to the full tax of $1\frac{1}{2}$ per cent. In the case of yarn, it used to enjoy complete exemption previously but hereafter, it will be taxed only at two points and the points will be prescribed under the rules and it will be at $\frac{1}{4}$ per cent, which will work up to only $\frac{1}{2}$ per cent, provided the tax is not passed on to the handloom weaver. We originally thought of ousting the jurisdiction of the civil and criminal courts also but the Select Committee thought that civil courts must be retained and as early as possible tribunals must be set up in order to see that, whenever the assessment is unduly heavy, it might be reviewed by an impartial tribunal. Thus we made several changes in the Select Committee and, therefore, it was acceptable to the House. If this House gives its sanction to this measure, it will give a source of revenue to Government. We are aware that the Excise income is dwindling and in the next year or the year after next, it will be completely wiped out. So far as land revenue is concerned, it cannot be enhanced because the ryots are clamouring for reduction. So, the sales tax must be our main source of income. With the taxes on luxury articles to the extent of a quarter or half an anna in addition to the general sales tax, it will bring in about 12 crores of rupees as conditions exist to-day. We are aware of many administrative difficulties and appeals to Government or to the Board of Revenue are not generally viewed with great favour. As in the case of Income-tax Act, a tribunal will be set up as early as possible so that many of the difficulties which the assesseees are subjected to may be redressed and I expect that the working of the Act will be to the satisfaction of those people upon whom the tax is going to fall and that it will yield a fairly good income to Government to meet the deficit on account of excise losses. I shall try to meet any arguments that may be raised during the course of the debate and I commend the Bill for the acceptance of the House."

* SRI R. SURYANARAYANA RAO:—"Mr. President, the Hon. the Finance Minister observed a short while ago that our silence was due to the fact that we were interested in some group, viz., the local bodies, as the entertainment tax is a real source of income to them. Therefore, we do not wish to register our silent acquiescence to this measure.

"Sir, I would like to say a few words about the Bill. First of all, I must congratulate the Hon. the Finance Minister on his sweet reasonableness in the Select Committee as I see it from the Report of the Select Committee which is published in the Gazette. He has tried to meet the points of view of those who felt that the imposition of the tax would cripple certain industries. I am particularly glad that in respect of the handloom cloth, he has

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yielded and I do not know what the effect will be, whether we will pay in the same manner as we do now or the tax will be higher than what we are paying now. As regards yarn, he said that it would be taxed at two points. I plead, Sir, that unless special steps are taken, it is just possible that the tax may be passed on to the handloom weaver. Every effort should be made to see that no further burden is thrown on the handloom weaver and the handloom industry does not suffer. As regards tea, I thought that Government were interested in promoting counter-attractions to the ex-addicts. I saw in the papers pictures of Hon. Ministers standing in places where toddy shops were run and drinking cups of tea. I felt that as a first step, they would like to encourage tea-drinking among the addicts and at least for some time if tea had not been taxed till this demon is got rid of and people get used to prohibition; it would have been better. I think the Government would have been wise if they had not taxed tea as they would have also made tea cheaper and provide a real counter-attraction. I hope, Sir, the Hon. Minister will not tax coffee because we are coffee addicts. But still if it is to be taxed, I would prefer coffee to be taxed rather than tea, because tea is the poor man's drink. We want to encourage the starting of tea shops wherever there were toddy shops and make it worthwhile for people to start them and enable addicts to take to it instead of to drink. I wish that tea had not been touched at all. At the same time, we realize that Government is faced with a large deficit and it is but right they should try to tap sources from which they can secure enough to make up the loss in income due to prohibition. I am sure that is why the other House did not even move amendments in order to enable the Hon. the Finance Minister to have the necessary funds to carry out the prohibition programme. I am a believer in the prohibition programme and so, I feel, that in bringing forward this Bill and in accepting also in the Select Committee various changes, the Hon. Minister has shown a large amount of sweet reasonableness which, I hope, he will continue to show when he deals with other measures."

* K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—
" Though members of this House had no opportunity of sending their representatives to the Select Committee, we were glad to know from the Press that the Hon. the Finance Minister has been very accommodating to the representations made by the people concerned and the arguments of the members of the Select Committee. I, therefore, join in the congratulation that has been extended to Hon. Finance Minister by my hon. Friend Mr. Suryanarayana Rao.

" On a perusal of the Bill as it originally stood and the Bill as it has emerged from the Select Committee and the Assembly, we find that several obnoxious features have been removed; of course it is due to the accommodating spirit of the Hon. the Finance Minister and one such important feature is the removal of the tax on commission agents. There were days when Government were

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“ Another point I would like to urge is this : the House may be aware that the tanning industry is the biggest export industry of this Province. Raw materials like wattle bark have to come either from outside the Province or even from outside the country. Even raw hides and skins have to come from outside the Province. I know this tax is to be taxed only at one stage, even then we must consider whether the tanning industry can withstand this. Now it is well known that finished hides and skins have to be sent out to Europe and America to be sold. It is very difficult for the industry to prosper if this tax is imposed. As I pointed out the raw materials have to come from outside and the finished product has to be exported to foreign countries for being sold. Therefore from what I know about this trade I can say this trade cannot withstand this taxation even at one point. So I would appeal to Government to reconsider whether it is not possible to avoid this taxation on this large industry in the Province, and whether Government cannot come forward to exercise in its favour the option given to it to exempt certain industries. 12 noon.

“ Another item I would refer to is regarding bullion, meat, fish, eggs and vegetables. Sir, bullion, as we all know, has altogether a different significance in this poor country of ours. Most of the people in the villages invest their savings in the purchase of silver and gold to be manufactured into jewels. The banking system has not become very popular among the rural population. So taxing purchase of bullion means taxing these poor people, who want to invest their savings in the purchase of gold and silver. I would therefore suggest that the tax on bullion may be completely removed.

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“ With regard to meat, fish, eggs and vegetables, these are all perishables, and so it is not proper these perishables should be taxed. Further the people who deal in these perishables are generally illiterate and they cannot be expected to keep accounts. For example, mutton shop-keepers are mostly illiterate, and even if they are educated it may not be possible for them to keep accounts. I do not think Government will get much from the levy of this tax on these dealers. These are the concrete suggestions I want to make on this Bill. I hope Government will give due consideration to these matters before bringing it into force.

“ There is another aspect of the Bill to which I wish to advert for a minute. The Hon. Minister referred to the provision to be made for appeals. I hope he will set up the tribunal as early as possible. Further new section 16-A will, I feel, work hardship on dealers. It provides that the validity of the assessment cannot be questioned in any criminal court. The gravamen of the charge may be the assessment itself. There must be some provision to enable the assessee to question the validity of the assessment even in criminal courts in suitable cases, if not in all cases.

“ Finally, Sir, we have to support the sales tax because we have been all in favour of total prohibition. Though on principle, I would say it is not a proper tax as it taxes the rich and the poor alike—or rather I would even say, as it taxes the poor even on their every day necessities of life, yet since we have to make up the money lost by launching on prohibition we have to support the measure. I hope in the actual working of the measure merchants will not be subject to harassment.”

DR. V. K. JOHN :—“ Mr. President, Sir, while I appreciate the urgent need for larger revenue, Government should remember that the levy of sales tax is not based on any principle. We have heard much about the urgent necessity for more revenue. It is justified on the basis of necessity. But it is not based on any principle whatsoever. We can understand a man being taxed on his income, but not when he enters into a business. Now if we analyse what the Government do, it will be seen that they take a share—I would even say, a very large share— $3\frac{1}{2}$ per cent at every stage, as is stated here, amounts 15 per cent or 20 per cent or 25 per cent or even more. The Government take a very large share in the price of goods and not in the profit that is made by anybody—in the value of the goods without investing any money and without taking any risk in the trade whatsoever. The portion given to the Government in the original sales tax was very low, that is, half a per cent; but in the amending measure it is 3 to 5 per cent which is exorbitant. Although this is called sales tax, it is a misnomer to call it so; for it is clearly a purchase tax on the buyer, who consumes the article purchased. You are in fact taxing everybody who purchases except perhaps with a very few exceptions. Now the burden of this tax will fall upon the poor men. The popular Government always says ‘ we are for the poor, we want to help the

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poor, we want to improve the condition of the poor'; but it does not realize that by reason of this apparent $3\frac{1}{2}$ to 5 per cent sales tax, it really works out to 20 to 25 per cent and more, which is imposing an intolerable burden on the consumer. Therefore I say that Government should consider this measure only as a temporary measure; if it is made a permanent measure it will take a very large portion of the income of the poor; it is a tax on the purchaser and the consumer; and though it is called a sales tax. I should not be surprised if this tax hampered trade and industry in this province, unless it is introduced in the neighbouring provinces.

"Sir, I would not be surprised if this Government bring in other taxes! For example, they might say, if I enter a saloon to cut my hair four annas might be collected from me as tax to Government; if I enter a railway compartment I should pay a tax; or if I enter my car I should pay a tax. Sir, the sales tax and such other taxes are not based on any principle; taxes must be based on income. These taxes will only drive away trade and industry from this Province.

"Now, Sir, this measure is defective from another point of view. The original Act was defective because it excluded the jurisdiction of civil courts to question the assessment of sales tax. From the assessment of the revenue collecting officer, an appeal lay to his superior executive officer, and from there is a revision by the Board of Revenue, and everybody, who has had to complain of assessment, knows what little justice is got from this machinery. Compare with the income-tax levy. The Income-tax Act is a well-worded Act on which there are many decisions and everybody is certain that too many provisions there are not left uncertain. Now, there, you can appeal from the Income-tax Officer to the Assistant Commissioner, and from him to the appellate tribunal not controlled by the Commissioner of Income-tax; and from there, if there is a question of law, you can refer it to the High Court, and from there you can go in appeal to a higher Court. Now in the case of income-tax the Legislature has provided for an independent tribunal to go into the matter. Why was not such a thing provided in the original Sales Tax Act? When a merchant is paying more by way of sales tax than by way of income-tax, why should the jurisdiction of courts be excluded to inquire into them."

THE HON. SRI B. GOPALA REDDI :—"May I point out to the hon. Member that in the Bill, as reported by the Select Committee, we have not ousted the jurisdiction of civil courts."

DR. V. K. JOHN :—"In the original Sales Tax Act, there is no jurisdiction for civil courts and that has not been touched. The Hon. Minister perhaps does not know that under the General Sales Tax Act we cannot carry the matter to a court of law. We must appeal to the appellate authority provided in it and that is above the officer who collects the tax. From there you

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go in revision to the Board of Revenue. You are increasing the sales tax by an enormous amount, i.e., from $\frac{1}{2}$ per cent to 3 or 5 per cent and you propose to collect crores of rupees from the subject. Should you not give the subject the privilege, the freedom to go to a court of law if the assessment is illegal? You raise the tax. It is not small. The tax is very much higher than the income-tax and no civil court has jurisdiction. Not only that, they are also excluding the jurisdiction of the criminal court.

"I have very often said, Sir, that when they amend an Act, they should place side by side at least the sections which are amended so that the Members of the Legislature might know the nature and import of the amendments. I think that most of us here do not have copies of the General Sales Tax Act to study and compare the import of this amendment. Section 15 of the original Act provided for offences and penalties. If a man submits a false return, or fails to pay the tax . . . he can be prosecuted and convicted. What does new section 16-A in the amending Bill say? It reads :

'The validity of the assessment of any tax, or of the levy of any fee or other amount, made under this Act, or the liability of any person to pay any tax, fee or other amount so assessed or levied shall not be questioned in any criminal court in any prosecution or other proceeding whether under this Act or otherwise.'

What defence has a man got if he is wrongfully prosecuted and if he has not wilfully failed to give a return? The amendment says that the Magistrate cannot enter into the question whether an offence has been committed or not. If the taxing officer says that you have wilfully neglected to give a return then the jurisdiction of the criminal court is taken away. I do not know why this Government should be afraid of courts of law. Will not the Magistrate be competent to go into the question which an executive officer can go into. 'Wilfully' is a matter for legal interpretation. When the magistrate was competent to go into this question and he has gone into this question from 1939 why should this be taken away now?"

THE HON. SRI B. GOPALA REDDI:—"We have retained the words 'civil courts,' Sir."

DR. V. K. JOHN:—"The jurisdiction of the magistrate to give a finding whether an offence has been committed or not under section 16 of the Act is now taken away. I say that this is just in keeping with the pieces of legislation which we have passed excluding the jurisdiction of the courts. Not only that in many portions of this Act the Government have taken power to prescribe very important matters. For instance section 3 says: 'Subject as aforesaid, the sale of any of the goods mentioned below shall be subject to a tax at the rate specified in respect thereof, at such single point in the series of sales by successive dealers as may be prescribed.' Therefore, the Government takes more and more power. This Act just gives them power to do anything they like.

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It excludes the jurisdiction of courts, it increases revenue oppressively, it not only excludes the jurisdiction of the civil courts but also the criminal courts and then they take so much general power by using the words 'as prescribed.' 'As prescribed' means as ordered by the Government. Therefore I would say that they are taking away the jurisdiction of the Legislature and they can do anything. Under the General Clauses Act the rules framed by the Government under the Acts should be placed before the Legislature. But that has been amended. They can simply frame the rules and publish them in the gazette. They are not satisfied with amending the original Act. An they have taken on themselves all the powers to do what they like under the Act. That is how they are excluding the jurisdiction of the Legislature also. I say, Sir, that this is not a model piece of legislation. Of course, they want more revenue. I am against those people who say that the Government should not be given the tax that is due to the Government and that the Government should not collect more revenue. Because after all, a Government, particularly a popular Government, spends the money for the people. Of course we criticise them. But we also realize the object before them and that they are striving honestly to achieve that object. Therefore I say that taxes should be paid. But give them the freedom to go to a court, and then it will be a piece of legislation which would be normal and which will satisfy the needs of the public and also satisfy the needs of the Government. I hope, Sir, that before long the Sales Tax Act will be revised because as I said originally it was passed on no principle whatsoever."

MR. PRESIDENT :—" As regards the point raised by Dr. John, with which I also agree, hereafter in the case of an amending Bill the Government may be pleased to print the relevant original sections"

THE HON. SRI B. GOPALA REDDI :—" They can always have the original Acts, Sir."

MR. PRESIDENT :—" I myself felt some difficulty in going through the amending Bill. I was not able to know which section was to be amended and we cannot expect hon. Members to have copies of the original Acts; they may not be available. I therefore think it is better when the Government print the Bill they also print the relevant primary sections so that we may know how it is going to be amended. If the Hon. Minister does not want a ruling he may take my suggestion."

* SRI P. VEERABHADRASWAMI :—" Mr. President, Sir, it is natural that every Government should want more money for its administration and therefore it would be necessary for them to collect new taxes or enhance the existing taxes. Our Finance Minister feels that there will be a huge deficit this year and he fears that these deficits will recur in the future also. The Government have many devices of getting more money and the present

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Bill is one of the devices to which he has resorted to find more money because the administrative cost is mounting more; the services are dissatisfied because the cost of living has gone up and they find it very difficult to pull on and therefore they want more salaries. And there are nation building schemes waiting to be completed. Therefore we cannot find fault with this popular Government when it resorts to new taxation. This is a tax that is levied on almost all the people in the Province and every one's pocket is touched. As every tax is unpopular this tax also is unpopular but we have to face facts and give the necessary support to the Government. Sir, I would have welcomed it if the Hon. Finance Minister had levied this tax at one point. It may be high, it may be even 3 per cent but the administration, the levy of the tax and its collection would have been more easy, and the expenditure for collecting the tax also would have been far less. Since the Select Committee has made a good number of changes in the original Bill the Bill as it has emerged from the Select Committee has to be welcomed. But, Sir, there is one difficulty which I have to point out. The minimum taxable sales amount has been reduced from Rs. 10,000 to Rs. 7,500. The poor and small traders who cannot keep accounts will be hit hard because the officers would not be able to calculate the sales amounts. There may be some amount of injustice done to the petty traders. The general complaint by the traders is not about the way in which it is administered. Certainly the officers call for accounts just a few hours before they have to be checked and the poor traders find it inconvenient because they may not find their clerks in time to give the accounts to the assessing officers and in case there are any defaults very severe penalties are imposed upon them. The traders have no objection to make periodical payments but they should be made just on the lines of the income-tax. The income-tax assessment has been found to be very easy and convenient. Sufficient time is given to them to produce their accounts and they are carefully scrutinized and assessments are made. The Sales Tax Officers generally resort to penalties. I would request the Government to see that as many facilities are given to the traders as possible.

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"The jurisdiction of the courts has been restored. It is a welcome feature. Our Finance Minister should not be satisfied with that. He should institute a tribunal on the lines of the income-tax tribunal. The Government will have to watch how the Act will affect the different industries and trades and suitable changes should be made after gaining sufficient experience. I heartily support the Bill."

* DR. SIR A. LAKSHMANASWAMY MUDALIYAR:—
"Sir, I want to put one or two questions to the Hon. Minister with regard to the possible effects of this tax in the direction of the dispersal of our industries and trade to other provinces. After the General Sales Tax Act was passed the Imperial Tobacco Company which had its headquarters at untur shifted it to Bangalore. One of the most important things we have to watch is

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that as a result of the sales tax many of the agencies which are now doing business in this presidency may be transferred from this presidency. Take for instance motor cars and vehicles. It will be very easy for a person to settle down in Bangalore, Cochin, Trivandrum and even Berhampur and get all the things wanted by the people in this presidency and for the latter to go there and get their cars and other things and thus evade the sales tax. On a 10,000 rupee car the sales tax will be appreciable—about 325 to 350 rupees. It should not be difficult for many persons to go there and get their cars, refrigerators, electric goods and so on.

There are two possible methods of solving this difficulty. If the difficulty is not solved, this province will be ruined so far as trade and commerce are concerned. One method is for the Finance Minister to use his good influence with his colleagues in the other Provinces and States, have a conference and see whether a general policy could not be laid down with regard to the sales tax. I realize the difficulties. But I feel that inasmuch as for the present a uniform policy is likely to be pursued owing to a certain amount of direction being given from other sources, it cannot be altogether out of the question to think of such an idea in the first instance. If however such a conference does not materialize or yield the results that we expect, I would suggest, in the interests, of those who are carrying on the trade and commerce in this presidency to bring in an amending measure to this Act so as to prevent persons from here going and purchasing many of the goods elsewhere and thus evading the sales tax and indirectly setting up agencies round about this presidency through persons who are not normally residents of this presidency. The general effect of the great increase in the sales tax will be, human nature being what it is, to evade the clauses under this Act. As a consequence, the rich will benefit and the poor will suffer all the more. I am sure the Hon. the Finance Minister who is getting this Bill passed with so much good will from both the Houses, will not allow this opportunity to slip of examining the question further and he will let us know periodically what the effect of the general sales tax is on the trade and commerce of this presidency."

* THE HON. SRI B. GOPALA REDDI :—" Sir, the point raised by the hon. Member Dr. Sir A. Lakshmanaswamy Mudaliyar was fully considered by the Select Committee and in fixing the tariff of 6 pies and 3 pies above the general sales tax we took into consideration all the relevant facts and factors. When we introduced the sales tax in 1939, we had the disadvantages of being pioneers. All kinds of criticism was levelled against our Act. Subsequently, owing to the fact perhaps that other provinces also required a lot of money, they introduced the general sales tax. Now all the provinces without exception—Bombay, United Provinces, Bihar and Orissa—are having some sort of general sales tax. Cochin has copied almost verbatim the General Sales Tax Act. An officer from Mysore was deputed to our Board of Revenue

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to examine this question. The Finance Minister of Mysore has written to me to say that they are thinking of levying a sales tax. Even in French India they are thinking of a sales tax. So far we have not heard anything about Travancore. Even Hyderabad has introduced a general sales tax, but it is on luxury articles. They have specified about 48 articles and they have levied rather a stiff tax. Province after province is copying our Act. There is therefore no fear of the dispersal of our industries to other provinces and the possibility of avoiding the tax—I do not call it evading—by diverting normal trade channels to other provinces.

“Originally when the amending Bill was published we thought of putting a stiff tax of 2 annas in the rupee on luxury articles. In the Select Committee we calculated how much it would cost to bring a motor car by road from Bombay or some other Province to Madras. We decided to levy an additional tax of only 6 pies in the rupee in addition to the $1\frac{1}{2}$ per cent. Even in Bombay they have a $3\frac{1}{8}$ per cent tax on motor cars purchased in Bombay. That will come to Rs. 300 or so on a 10,000 rupee car. It will cost Rs. 200 to Rs. 300 to bring the car by road. We took this into consideration and fixed a tax of 6 pies in the rupee on motor cars. This will not divert our usual trade in automobiles from this province. All these relevant factors were fully considered. We acted as a tariff board. We took into account the cost of these things and saw to it that our trade was not diverted from our places and harbours.

“There was another provision given to the Government in the Select Committee but the Government did not want it. The provision was to the effect that the Provincial Government may by notification in the *Fort St. George Gazette* make exemption or reduction in rate in respect of any tax payable on certain articles. We received several representations from British Cochin where the position is peculiar. The godowns are on the Cochin side and the head offices are in British Cochin. Then they are subject to both the Cochin sales-tax and the Madras sales-tax. Representations were received by the Government and the Select Committee thought it fit that Government should have the power to exempt or reduce the rates. They did not give the power to enhance the rates, but only for exemption or reduction in the rate. It is a very huge responsibility thrust on the Government and it is very irksome for any Minister to administer this Act. We thought that a standing advisory committee should be set up which will from time to time scrutinize the working of the rules, the Act and the other administrative difficulties which arise. Much of Dr. V. K. John's criticism can be met by the setting up the standing advisory committee. I am sure some of the Members of this House will be nominated to the Committee. They can examine all the rules. Even as it is, the turnover rules have to be approved by the Legislature—the Legislative Assembly. As regards the other rules prepared by the Government, the Standing Advisory Committee will be taken into confidence. They can scrutinize the rules and obnoxious provisions, if any, framed by the Government in

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exercise of their powers as it were, can be obviated. The Advisory Committee will be a very good institution. It can create its own conventions. As far as I can see, the dispersal of trade or diversion of trade is not possible, because all other provinces are imposing this tax.

“ So far as we have not heard any complaint that the head offices of any concern are being removed to Bangalore or other provinces. I knew the shifting of the tobacco company. But tobacco is subject only to the Central Excise. The Central Government are giving us Rs. 22 lakhs. We are not permitted to tax tobacco at any stage. Therefore here the question of removing the tobacco company's offices from Madras does not arise.

“ Sir, the 1939 Act gave powers to the civil courts and the criminal courts. In the amending Bill we wanted to oust the jurisdiction of the civil and criminal courts. But the Select Committee restored the jurisdiction of the civil courts and ousted the jurisdiction of the criminal courts only.

“ The hon. Member, Dr. John waxed very eloquent about the Income-tax Act. That Act has been in existence for 40 years. It is not even 10 years since this Act has come into force. The department is not made permanent. The Manual is not yet ready. The whole thing is temporary. We are taking steps to see that the department is made permanent from 1st April 1948 and the Manual is got ready. The question of a tribunal also is engaging the active consideration of the Government and it will come very soon as an amendment of this Act itself.

“ With the standing advisory committee on one side helping the Ministry and the tribunal on the other side, I think all the difficulties can be removed to a great extent. As regards criminal courts, we have examined the Income-tax Act again. Under that Act the criminal court has no jurisdiction on the question of assessment once it is made. The civil courts are there for the time being and at any time, before going to the Revenue Board or after getting the verdict of the Revenue Board, an aggrieved person can always go to the civil court and get a decision in his favour. We are only ousting the jurisdiction of the criminal court, because there was conflict of judgment between a criminal court and a civil court and confusion was created. We are justified in saying that the criminal court need not go into the question whether the tax is legally due or not, but can only go into the question whether the assessment is properly made or not. When the tribunal is set up, I hope that many of the difficulties will be obviated and that the working of the Act will go on smoothly.

“ As regards bullion, we are aware that it is the poor man's investment. So we have not subjected it to the usual tax of $1\frac{1}{2}$ per cent, but only to a tax of $\frac{1}{4}$ per cent, which comes to only four annas for a turnover of Rs. 100. In 1943, the Advisers Government imposed the usual tax of 1 per cent for one year, and realized 22 lakhs of rupees. As a good deal of transactions in bullion was diverted to Bangalore and other places, they removed the tax

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altogether next year. Just now we want to see whether bullion can bear this $\frac{1}{4}$ per cent tax without the trade being diverted to places outside the Province. We shall watch the position. The Standing Advisory Committee can go into the question from time to time and suggest any amendments, if necessary.

“ Regarding perishable articles like vegetables, fruits, eggs and mutton, we have shown a little concession. The dealers in these articles will be taxed only when their turnover reaches Rs. 20,000. Those whose turnover is Rs. 10,000 and above but below Rs. 20,000 will not be taxed, but they have to get licence and maintain accounts for inspection by the Commercial Tax Officers. It has been contended that many of the dealers in these articles are illiterate and that they should be exempted. The muttonwallahs, vegetablewallahs, fruitwallahs, etc., have been paying the tax for the last eight years and I don't see why they should be exempted now on the ground that they are illiterate.

“ Regarding tanning industry, we have not done anything though we wanted to bring it within the operation of this Bill. At present, the tax is levied at 1 per cent on the purchase value of the hides. We wanted to levy the tax on the sale value, and it makes a lot of difference. But we decided not to do anything till we go further into the question whether the trade can bear the difference in tax. Instead of 1 per cent, it will be taxed at $1\frac{1}{2}$ per cent like other commodities, and that too only on the purchase value.

“ The Provincial Textile Commissioner is being asked to see that the $\frac{1}{4}$ plus $\frac{1}{4}$, i.e., $\frac{1}{2}$ per cent tax on yarn is not passed on to the handloom weaver. Yarn is regulated by the Government of India and some percentages are being fixed. When it comes to the handloom weaver, I think the percentage is about 18 or 20. This tax also has to be adjusted within that 18 or 20 per cent. As long as there is control on yarn and textiles, we will see that the tax is not passed on to the handloom weaver.

“ Tea is being taxed only at the first point, because it is considered to be an agricultural product. But as a matter of fact, it is not a purely agricultural product. For income-tax purposes, I think 60 per cent is taken as agricultural product, and 40 per cent as industrial product because it passes through several processes before it is marketed. We considered the question as to what extent tea was an agricultural product and an industrial product and we decided to tax only the tea consumed within the Province, which is only a small percentage of our total export. But the exported tea will continue to enjoy exemption, because tea has to face keen competition in the London market just now. South Africa and Kenya in particular have increased their acreage under tea. London has reduced her consumption of tea by some millions of tons. Considering all these things, we have allowed complete exemption to exported tea. We shall see whether tea cannot bear the tax and tax it under section 6 which gives a very

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wide power to Government. Tea has become costly and I don't expect that it will become more costly. We shall have the question examined by the Standing Advisory Committee.

" Nothing is being done with coffee for the present, and this question also will be considered. Dr. John was repeatedly saying that the tax on it would be going up by 20 to 25 per cent. I don't know from where he got these figures. On no commodity will the tax come to 20 to 25 per cent. On an average it comes to about 3 to 4 per cent, and the General Sales Tax is only $1\frac{1}{2}$ per cent. The total comes to $4\frac{1}{2}$ to 6 per cent. Even on luxury articles like motor cars and electrical goods, it does not exceed 3 to 4 per cent. After all, luxury articles are taxed only at one point whereas the General Sales Tax is levied at all points. There is no point in saying that the tax comes to 20 to 25 per cent on the gross value of the commodity.

" We shall watch the administration of the Act very carefully. When the Standing Advisory Committee is set up, nothing will be done without placing the matter before the committee. Early steps will also be taken to appoint a tribunal. This Act will not be very oppressive on the poor dealers and they must pay the tax very cheerfully. I have nothing more to add except to say that I am very thankful that the House has given its general approval to the Bill."

The motion was put and carried.

Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 1 and the preamble were separately put and carried.

THE HON. SRI B. GOPALA REDDI :—" I move—

' that the Bill be passed into law. '"

DR. V. K. JOHN :—" With the permission of the Chair, I want to say a few words about the jurisdiction of the court. The Hon. Finance Minister seems to think that the jurisdiction of the civil court is not excluded but that the jurisdiction of the criminal court only is excluded by the amendment. According to section 11 (1) of the 1939 Act, which is not amended :

' Any assessee objecting to an assessment made on him may, within thirty days from the date on which he was served with notice of the assessment, appeal to such authority as may be prescribed. '

The authority prescribed by the rules is an executive officer in the cadre of Deputy Collectors. According to section 11 (4) :

' Every order passed in appeal under this section shall, subject to the powers of revision conferred by section 12, be final. '

Section 12 deals with the revisional jurisdiction of the Board of Revenue."

* THE HON. SRI B. GOPALA REDDI :—" As far as the Government are concerned, the decision shall be final. It does not mean that we have ousted the jurisdiction of the court."

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DR. V. K. JOHN :—“ According to the section I have quoted, the decision of the appellate authority under section 11, namely, the Commercial Tax Officer, is final, and no suit can be filed against the Government or the officer who is concerned with the decision. Therefore, I say that the jurisdiction of the civil court was excluded in the original Act. I am sorry that the Hon. Minister thinks that the jurisdiction of civil courts is not excluded. The authority prescribed in section 11 may be an independent tribunal, which they can do without amending the Act. If that be the intention of the Hon. Minister, I hope the House and the public will be glad. But to-day it is not an independent tribunal, but an executive officer.”

* THE HON. SRI K. MADHAVA MENON :—“ I don't think that Dr. John is right in harping on the point that the jurisdiction of the civil court has been completely taken away. It is specifically provided in section 18 :

‘ No suit shall be instituted against the Crown and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Provincial Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.’

So a suit or proceeding can be launched within six months. To say that the jurisdiction of the civil court is taken away is curious.”

SRI B. NARAYANASWAMI NAYUDU :—“ It is against individuals, but not with regard to assessment.”

* THE HON. SRI K. MADHAVA MENON :—“ It is not only against individuals.”

* THE HON. SRI B. GOPALA REDDI :—“ Some time ago, I answered a question in this House which was, I think, put by Sri R. Suryanarayana Rao regarding how many appeals were preferred in the civil court, how many were upheld and how many were set aside and so on. I did give the number of cases, though I do not remember it now.”

DR. V. K. JOHN :—“ May I assure the Hon. Minister that on assessment the decision of the appellate authority is final under section 11 and that no appeal lies to any court? ”

* THE HON. SRI B. GOPALA REDDI :—“ Section 11 contemplates that so far as the Revenue Board has disposed of the appeal, it is final. But it is open to the aggrieved party to move the matter in a court.”

1 p.m. SRI B. BHIMA RAO :—“ Sir, civil suits have been filed in the Kistna and Bellary districts and have been decreed and appeals are pending.”

* K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“ Mr. President, Sir, the Hon. Finance Minister said that the Government is contemplating whether the tanning industry can be taxed

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at the sale point. In this connexion I would like to point out that the Government of India itself has felt that the tanning industry is in a very difficult situation and that is why it has sent out a deputation at its own expense to England, America and to the Continent to explore in what way the export of tanned skins and hides can be accelerated and facilitated. The very fact the Government of India has sent out this deputation under the leadership of Mr. Jamal Mohideen Sahib, shows that the industry is in a somewhat difficult situation and that it is not advisable to tax it, either at the sale point or even at the purchase point.

"Another point which I should like to mention, though it is only a small point, but which affects a very important and influential section of the assesseees, namely, the Press, is this. There is provision made in this Bill for taxing newspapers. It is true that the newspaper reading public will not be asked to pay the tax, but that the proprietors will pay. And we know that except a few newspapers, all others are not being run at a profit. I would also point out that taxing newspapers is taxing knowledge and I would suggest that in exercise of the powers vested with the Government, newspapers may be exempted."

The motion was put and carried and the Bill was passed into law.

MR. PRESIDENT :—"The House will now adjourn to meet again at 3 p.m."

(After lunch—3 p.m.)

(3) THE MADRAS SUPPRESSION OF IMMORAL TRAFFIC
(AMENDMENT) BILL, 1947 (L.A. BILL NO. 17 OF 1947)

* THE HON. SRI K. MADHAVA MENON :—"Sir, I move—
'that the Madras Suppression of Immoral Traffic (Amendment) Bill, 1947 (L.A. Bill No. 17 of 1947) as passed by the Legislative Assembly be taken into consideration at once.'"

SRI R. SURYANARAYANA RAO :—"Sir, I rise to a point of order. The Bill was considered by a Joint Select Committee of both the Houses. While the Select Committee report has been presented to the other House—I was myself a Member of the Select Committee and I know what happened—no such report has been presented to this House. I do not know what the rules are; but I think when a Joint Select Committee is set up . . ."

THE HON. DR. P. SUBBARAYAN :—"Might I point out, Sir, for your consideration that a Joint Select Committee is appointed in order to see that Members of this House also take part in the deliberations of the Committee and the Government, as usual, can either present the Bill in the one House or in the other House."